IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

Satyender Ubba vs. State of Rajasthan
(S.B.C.Writ Petition No.879/02)

Date of Order :- 16th October, 2006.

PRESENT

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Mr.P.P.Choudhary, Advocate, for the petitioner.
Mr. Rameshwar Dave, Dy.Government Advocate.
Mr. J.P.Joshi, Advocate, the respondents.
Mr.Girish Joshi, Advocate for U.G.C.

In the present writ petition, the petitioner has challenged proviso to Schedule-I, item (3) A of the Regulations of 1991 amended vide notification dated 21st June, 1995 and has prayed that the said proviso be declared ultra vires to Article 14 of the Constitution of India and respondents be directed to treat the petitioner eligible for the appointment on the post of Lecturer by accepting his N.E.T. qualification as duly recognised and grant him consequential relief. He has also prayed that communication dated 30th January, 2002 declaring him to be illegible be set aside ad the petitioner be declared as

eligible for appointment on the post of Lecturer with all consequential benefits.

The grievance of the petitioner is founded on the facts that he qualified Nation Eligibility Test(in short "NET") on 3rd May, 2000 and a certificate to this effect was issued to him by Controller of Examinations, Agricultural Science Recruitment Board, New Delhi. He also has to his credit teaching experience on the post of Lecturer in Mahrishi Dayanand P.G. College, Sri Ganganagar during the academic session of 1998 onwards. Rajasthan Public Service Commission(in short "R.P.S.C.") issued an advertisement on 20th June, 2001 inviting applications for appointment on the post of Lecturer. One of the eligibility conditions was that the candidate should have qualified eligibility test like NET/SLET. The petitioner accordingly applied for appointment but the R.P.S.C. rejected his candidature on the ground that he has passed NET from Agricultural Science Recruitment Board prior to 4th February, 1999 therefore he was not eligible. Reason for this was that the University Grants Commission has accredited National

Eligibility Test(NET) conducted by the Agricultural Science Recruitment Board, New Delhi with effect from 4.2.1999.

According to the petitioner when the approval has been granted to the N.E.T. examination conducted by the Agricultural Science Recruitment Board, New Delhi w.e.f. 4.2.1999, a qualifying examination test by the candidates from that institution even during earlier period cannot be completely discarded to make such candidates ineligible particularly when the certificate produced by the petitioner proved that he qualified on 3rd May, 2000. According to the petitioner the validity of qualification should not be determined on the basis of date of examination but it should be adjudged on the date of which the candidate acquired the qualification and he issued certificate/degree. It has further been submitted that restriction imposed by proviso to Schedule-I, item (3) A of the Regulations of 1991 was unreasonable inasmuch as it seeks to treat equals unequally and therefore was violative and ultra vires of Article 14 of the Constitution of India. It is in this background that the present writ petition has been filed .

The respondents have contested the writ petition and submitted reply stating therein that for appointment on the post of Lecturer, a candidate is required to qualify N.E.T. conducted by the University Grants Commission or the C.S.I.R. or the eligibility test recognised by the U.G.C. or by the State Government. The petitioner although qualified N.E.T. conducted by the Agricultural Science Recruitment Board, New Delhi in December, 1998 however recognition to the said course was granted by the U.G.C. w.e.f. 4.2.1999 and therefore those who have qualified the N.E.T. from Agricultural Science Recruitment Board, New Delhi prior to that date were not eligible. It has been submitted that recognition to the examination conducted by a particular body is granted by the U.G.C. upon being satisfied about the quality and the standard of the education imparted by them and on the basis of infrastructure, standard of academic faculty. Such recommendation cannot therefore be made effective from an earlier date and has to be made prospectively. It has therefore been submitted that no discrimination was made with the

candidates who passed the N.E.T. conducted by Agricultural Science Recruitment Board, New Delhi prior to 4.2.1999. It has been denied that proviso to Schedule-I, item (3) A of the Regulations of 1991 is in any manner discriminatory or ultra vires to Article 14 of the Constitution of India.

I have heard Mr.P.P.Choudhary, learned counsel for the petitioner, Mr.Rameshwar Dave, learned Dy.Government Advocate for the State and Mr.J.P.Joshi, for the respondent and perused the record.

The proviso with which the petitioner is aggrieved for the facility of reference is reproduced hereunder:-

> "Candidates besides fulfilling the above qualifications should have cleared the eligibility test for lecturers conducted by UGC, CSIR or similar test accredited by the UGC".

It would be evident from the above proviso that apart from the eligibility test conducted by the U.G.C. and C.S.I.R. , it requires that similar tests accredited by U.G.C. shall also be recognised. When this accreditation in the case of

Agricultural Science Recruitment Board, New Delhi has been granted by U.G.C. On 4.2.1999, there can be no basis for making this act of accreditation effective an earlier date. Hardship caused to any individual or to a person or group of persons by itself does not make the provision ultra vires to Article 14 of the Constitution of India. Impugned proviso in requiring recognition of such similar test conducted by such Institutions which are accredited by U.G.C. cannot be held to be unreasonable and therefore accreditation granted by the U.G.C. has to be made effective from a given date. Such accreditation may be based on the basis of satisfaction of the U.G.C. as to quality of education and training imparted by the Institution and the kind of infrastructure that is available and the level of its academic faculty. It may be that particular institution is initially not granted such accreditation but in course of time if it has been able to improve their upon required level of standards, such accreditation may be granted to it subsequently at a later point of time. But on that basis, it cannot be said that all those who passed the test conducted by such institutions even during earlier period should be treated at

par with those who passed such examination after such institutions are granted accreditation. This is so because these two classes of candidates would fall in separate categories which can be described as reasonable classification. There is therefore no case of the violation of Article 14 of the Constitution of India. I am not persuaded to accept the argument that making of accreditation by the U.G.C. or recognition of eligibility test conducted by Institutions other than U.G.C. and C.S.I.R. From a particular by itself would be ultra vires to Article 14 of the Constitution of India. If such a requirement was not to be there, no standard of level in such examination/test could be ensured.

In the result, the writ petition being devoid of merit fails and is hereby dismissed with no order as to costs.

(MOHAMMAD RAFIQ),J.